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To: Mr. Fred Silverberg Date: September 14, 1999

Fax #: 9-1-703-308-6916 Pages: 8

From: John S. Sensny

Re: Ted Christopher
U.S. Serial No. 08/746,360
Filed: November 8, 1996
FINITE AMPLITUDE DISTORTION-
BASED INHOMOGENEOUS PULSE
ECHO ULTRASONIC IMAGING
Examiner: F. Jaworski
Art Unit: 3305
Our Docket: 9872

COMMENTS:

We are transmitting herewith the summary of the arguments we presented at the September 9, 1999 hearing.

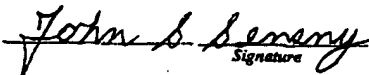
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TRANSMITTAL LETTER (General - Patent Pending)			Docket No. 9872
In Re Application Of: Ted Christopher			
Serial No. 08/746,360	Filing Date	Examiner	Group Art Unit
Title: FINITE AMPLITUDE DISTORTION-BASED INHOMOGENEOUS PULSE ECHO ULTRASONIC IMAGING			
<u>TO THE ASSISTANT COMMISSIONER FOR PATENTS:</u>			
Transmitted herewith is: Summary of Arguments Presented At The Hearing On Petition For The Institution Of A Public Use Proceeding			
In the above identified application.			
<div style="display: flex; flex-direction: column; gap: 5px;"><div><input checked="" type="checkbox"/> No additional fee is required.</div><div><input type="checkbox"/> A check in the amount of _____ is attached.</div><div><input checked="" type="checkbox"/> The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. 19-1013/SSMP as described below. A duplicate copy of this sheet is enclosed.<div style="margin-left: 20px;"><input type="checkbox"/> Charge the amount of _____ <input checked="" type="checkbox"/> Credit any overpayment. <input checked="" type="checkbox"/> Charge any additional fee required.</div></div></div>			
<div style="display: flex; align-items: center;"><div style="text-align: center;"> _____ <small>Signature</small></div><div style="margin-left: 20px;">Dated: September 14, 1999</div></div> <div style="margin-top: 5px;">John S. Sensny Registration No: 28,757</div>		<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><small>I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.</small></div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"><small>Signature of Person Mailing Correspondence</small></div> <div style="border: 1px solid black; padding: 5px;"><small>Typed or Printed Name of Person Mailing Correspondence</small></div>	
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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Ted Christopher

Docket: 9872

Serial No.: 08/746,360

Dated: September 14, 1999

For: FINITE AMPLITUDE DISTORTION-
BASED INHOMOGENEOUS PULSE
ECHO ULTRASONIC IMAGING

Assistant Commissioner for Patents
Washington, DC 20231

Attn: Mr. Fred Silverberg
Special Program Law Office of the Office of the
Deputy Assistant Commissioner for Patent Policy and
Projects

Summary of Arguments Presented At The Hearing On Petition
For The Institution Of A Public Use Proceeding

Sir:

This is to summarize the arguments made by Applicant
at the September 9, 1999 hearing on the above-identified
Petition.

Applicant believes that the Examiner's determination
of a prima facie case of prior public use, should be

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile
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shown below.

Dated: September 14, 1999

John S. Sensny
John S. Sensny

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reconsidered or reviewed before any public use proceeding is begun.

The Examiner's determination of a prima facie case of prior public use is a necessary condition to the institution of the public use proceeding. Such a proceeding would be a significant burden, both in time and cost, to the Applicant and to the Patent Office. Further, it is contended that this burden is also unnecessary in light of the evidence of record. It is appropriate and prudent to have administrative review or reconsideration of the Examiner's decision before the patent Office initiates a lengthy, expensive and unnecessary proceeding.

In contrast to the substantial burden that would be caused by the Public Use Proceeding, the burden on the Patent Office caused by having the Examiner reconsider his determination is comparatively minimal. This is due to the Examiner's present knowledge of the technology claimed in this application and of the facts alleged in the materials submitted with the Petition for the Public Use Proceeding.

According to MPEP §720.03, the September 9 hearing amounts to an order to show cause why a public use proceeding should not be held. Applicant has thus far had no opportunity to rebut the Examiner's conclusion of a prima facie case of

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prior public use, and the public use proceeding should not go forward until Applicant has had that opportunity.

At the hearing on September 9, it was noted that the claims of the application are not presently rejected, and might never be rejected, on the basis of the materials submitted with the Petition to institute the public use proceeding. It must be emphasized, however, that any public use proceeding will significantly delay the issuance of a Patent for Applicant's invention, and thus will significantly reduce the term of that Patent. This will happen regardless of whether the present claims are ever rejected on the basis of any evidence submitted in connection with that proceeding. Because of this significant reduction of the patent term, the public use proceeding will cause the loss of substantive patent rights of the Applicant. Before the Patent Office makes a decision that affects substantive rights of the Applicant, administrative due process requires that the Applicant be given an opportunity to have the Examiner's decision reviewed.

Applicant has sent to the Examiner a formal request that the Examiner reconsider the determination of a prima facie case of prior public use. That request contains a careful analysis of the materials relied on by the Examiner and of the relevant legal issues, and explains in detail why the determination should be reconsidered and withdrawn. Applicant

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has also submitted a separate Petition under 37 C.F.R. §1.182, or in the alternative under 37 C.F.R. §1.183, to authorize or allow the Examiner to reconsider that determination.

In conclusion, a public use proceeding is likely to be a lengthy and expensive procedure. Also, the fact that this proceeding occurs, regardless of its outcome, would significantly delay issuance of Applicant's Patent and thus adversely affects the Applicant's substantive rights. Applicant submits that before the Patent Office starts down this path, Applicant should be afforded the opportunity to have the Examiner's decision reconsidered or reviewed.

Respectfully submitted,

John S. Sensny
John S. Sensny
Registration No. 28,757

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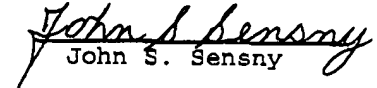
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Summary of Arguments has been sent to William A. Webb, attorney of Acuson Corporation, on September 14, 1999, by facsimile and first class mail at the following address:

William A. Webb, Esq.
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Ill 60610
facsimile 312-321-4299

Date: September 14, 1999


John S. Sensny

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